UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:19-cv-00020-FDW

TERRANCE L. JAMES-BEY,)	
Plaintiff,)	
VS.)	<u>ORDER</u>
KENNETH LASSITER, et al.,)	
Defendants.)	
)	

THIS MATTER is before the Court on Plaintiff's Motion for Default Judgment [Doc. 40] and Plaintiff's "Motion to Participate in the 'Pro Se Settlement Assistance Program." [Doc. 52].

Pro se Plaintiff Terrance L. James-Bey ("Plaintiff") is a prisoner of the State of North Carolina currently incarcerated at Marion Correctional Institution in Marion, North Carolina. Plaintiff filed his original Complaint, pursuant to 42 U.S.C. § 1983, on January 22, 2019 [Doc. 1] and an Amended Complaint on June 12, 2019 [Doc. 22]. Plaintiff's Amended Complaint survived initial review under 28 U.S.C. §§ 1915A and 1915(e) as to certain claims against certain Defendants. [Doc. 15]. On December 11, 2019, Plaintiff moved for default judgment [Doc. 40], although Defendants' deadline to answer or otherwise respond to Plaintiff's Amended Complaint was February 14, 2020. [Docs. 41, 47]. Also, Plaintiff has appealed the Court's initial review Order to the Fourth Circuit Court of Appeals. [Docs. 32, 33]. The Fourth Circuit has stayed Plaintiff's appeal pending a decision in Meyers v. Commissioner, No. 18-2312(L). [Doc. 48].

The Court will address Plaintiff's pending motions, as they do not relate to Plaintiff's appeal. See In re Bryant, 175 B.R. 9, at *11 (W.D. Va. Nov. 2, 1994). As for Plaintiff's motion for default judgment [Doc. 40], it will be denied. Defendants' time to respond to Plaintiff's

Amended Complaint had not expired at the time Plaintiff filed his motion. As such, no grounds exist for an entry of default, let alone default judgment. Fed. R. Civ. P. 55. Further, Defendants have since answered Plaintiff's Amended Complaint.

As for Plaintiff's motion to participate in the Pro Se Settlement Assistance Program (the "Program") [Doc. 52], this motion will also be denied. Generally, this Program is available for voluntary application in all civil cases in which any party appears pro se. The Program, however, does not apply to prisoner civil rights cases, such as the case brought by Plaintiff here. [Case No. 3:13-mc-00134-FDW, Docs. 1, 2].

IT IS THEREFORE ORDERED that:

- (1) Plaintiff's Motion for Default Judgment [Doc. 40] is **DENIED**.
- (2) Plaintiff's Motion to Participate in the "Pro Se Settlement Assistance Program" [Doc. 52] is **DENIED**.

Signed: March 3, 2020

Frank D. Whitney

Chief United States District Judge